

from funds received from non-government sources. Additionally, the provision states explicitly that only government funds are subject to government audit.

Therefore, the charitable choice provision protects participating religious organizations from unwarranted governmental oversight, while also holding such organizations financially accountable in the same way as all other non-governmental providers receiving government funding.

There was also a statement made on the House floor that the charitable choice provision "would seek to enact exemptions from the religious discrimination clauses of the Civil Rights Act of 1964." This is a misstatement of what the provision says. Charitable choice does not create an exemption from the Civil Rights Act of 1964. Rather, it states that it preserves the exemption in the law allowing religious organizations to make employment decisions based on religion. The Supreme Court affirmed the constitutionality of this provision in *Corporation of the Presiding Bishop v. Amos* (1987). Receiving government funds for a secular purpose does not, of course, result in a waiver of this exemption. See, e.g., *Siegel v. Truett-McConnell College*, 1994 WL 932771 (N.D. Ga. 1994).

If a religious nonprofit organization must hire persons in open disagreement with the religious background and mission of the organization, its religious autonomy would be severely infringed. In fact, many successful faith-based organizations have stated that they would not take government funding if it would require them to hire employees who did not hold the same religious beliefs of the organization. For example, the International Union of Gospel Missions conducted a survey of their missions and found that some of these missions refused government funding if it required them to hire non-Christians.

The Charitable Choice makes clear that a religious organization maintains its Title VII exemption when it receives government funds to provide social services.

There was also an argument made that the charitable choice provision would require the government to consider using fringe religious groups to provide CSBG services. Although I find this to be more of a scare tactic than a legitimate argument, I think it is obvious that the charitable choice provision will not require the government to blindly select any non-governmental organization that applies for CSBG funds. The government may require legitimate, neutral criteria to all who apply. No organization, religious or otherwise, can become a provider unless it can deliver on its grant or contract.

Finally, there was an argument that the charitable choice provision could override the constitutional language of states prohibiting public funds from going to religious organizations. I

would simply respond that the charitable choice provisions are in federal law dealing with federal dollars. We do not tell the states how to spend their own state tax funds.

In conclusion, the opponents of the charitable choice concept have not taken into account the latest Establishment Clause jurisprudence. If there is a comprehensive, religiously neutral program, the question is not whether an organization is of a religious character, but how it spends the government funds.

To reject charitable choice is to jeopardize Congress' ability to encourage proven, effective religious organizations to provide social services to our nation's needy with government funds. For years, these organizations have been transforming broken lives by addressing the deeper needs of individuals—by instilling hope and values that help change behavior and attitudes. By contrast, government-run programs have often failed in moving people from dependency and despair to independence. We must continue to find ways to allow private, charitable, and religious organizations to help administer the cultural remedy that our society so desperately needs. The charitable choice provision in the "Coats Human Services Reauthorization Act of 1998" is one way of accomplishing this goal.

THE LEGENDARY FRANK YANKOVIC

Mr. DEWINE. Mr. President, I rise today to pay tribute to one of the greatest musicmakers in the history of the Buckeye State, the legenday "Polka King," Frank Yankovic, who died yesterday at age 83.

Frank Yankovic was from Cleveland, OH, but he had fans not just in Ohio but all over America. He brought joy to millions with his lighthearted polka hits—songs whose very titles can occasion a smile—songs like and "Champagne Taste and a Beer Bankroll" and "In Heaven There Is No Beer."

Frank Yankovic won a Grammy Award, and was nominated for three more. With his passing, the world of music, and indeed all Americans who believe that music is supposed to be fun, have lost a true friend.

The voice of Frank Yankovic resounds through the decades, asking the question that most everyone in northeast Ohio grew up with: "Who stole the kishkes?"

Mr. President, it is my hope and strong belief that St. Peter is even now answering this question for Frank Yankovic—as he welcomes him to the polka band that used to be known as the heavenly choir.

On behalf of the people of Ohio, let me say thank you to this great Ohioan—for a lifetime of entertainment.

TRIBUTE TO MARIAN BERTRAM

Mr. DASCHLE. Mr. President, as the 105th Congress comes to a close, I take

this opportunity to express my appreciation, and I think the appreciation of all Members on our side of the aisle, and particularly the staff of the Democratic Policy Committee, to an individual who has dedicated 27 years to public service and the United States Senate. Marian Bertram, the personable and talented Chief Clerk of the Democratic Policy Committee, is leaving the Senate at the end of this year.

Marian, who began her work at the Democratic Policy Committee in 1971, has served four Democratic Leaders—Mike Mansfield, ROBERT BYRD, George Mitchell and myself. She has an unparalleled knowledge of the legislative process. Since its inception and for many years thereafter, she had the major responsibility of reaching and writing one of the Committee's most popular publications, the *Legislative Bulletin*. Equally important, she has the vital and demanding responsibility for the production of Voting Records and vote analyses provided to all Democratic members.

In addition to her legislative work, Marian assumed the job of Chief Clerk of the Policy Committee in 1989. Through her competence and dedication and command of every detail of the Committee's operation and budget, she makes a major contribution to the smooth running of the Policy Committee.

Marian handles this broad range of responsibilities with professional skill, equanimity, and unflinching good humor. She will be dearly missed by her friends and colleagues in the Senate.

All of us offer Marian our sincere thanks and every good wish for her continued success. Thank you, Marian Bertram.

NOMINATION OF DR. JANE HENNEY TO THE FDA

Mr. NICKLES. Mr. President, I wish to speak on the nomination of Dr. Jane Henney to be Commissioner of FDA.

Mr. President, the nomination of the FDA commissioner is one of the most important nominations the Senate has considered this year. The FDA regulates products comprising twenty-five cents of every dollar spent by consumers in this country. It deals with literally life and death issues on a daily basis. Given the significant impact the FDA has on the life of every American, it is important that the Senate exercise caution to ensure the next Commissioner is qualified and capable of leading the Agency.

I have let Dr. Henney know, and I let Secretary Shalala know, that I had some concern with FDA as it has been administered for the last few years. The FDA should be a non-partisan science based Agency which focuses solely on its mission to ensure the safety of food and to expeditiously review drugs and medical devices which are intended to save and extend lives. And for this reason I felt I needed personal assurance from Dr. Henney that under